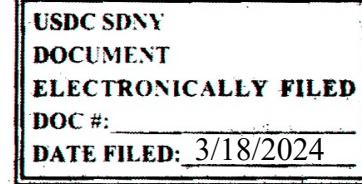


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GARY KEMP,

Petitioner,

20-CV-09121 (RA)(SN)

-against-

ORDER

JOSEPH NOETH,

Respondent.

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SARAH NETBURN, United States Magistrate Judge:

Petitioner mailed the Court a C.P.L. § 440.10 vacatur motion dated February 27, 2024.

This type of motion cannot be filed in federal court, and it cannot replace his petition for habeas corpus. The January 17, 2024 petition is the most recent petition filed with the Court, and it is the petition that the Court will rely on. ECF No. 66.

By April 1, 2024, Petitioner shall file a letter confirming: (1) whether the January 17, 2024 petition is the petition he would like the Court to consider when deciding on his habeas claims; and (2) whether he wants the Court to also consider the unexhausted claims raised in § 440.10 vacatur motion as a supplement (or addition) to the January 17, 2024 petition.

SO ORDERED.



SARAH NETBURN
United States Magistrate Judge

DATED: March 18, 2024
New York, New York